

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
(PITTSBURGH DIVISION)

DR. ENRICO NICOLO, an individual)	CIVIL ACTION
resident of Allegheny County,)	
)	Case No.:
Plaintiff)	
)	
vs.)	
)	
PATTERSON BELKNAP WEBB &)	
TYLER, LLP, a Limited Partnership of New)	
York; ETHICON ENDO-SURGERY, INC.,)	
a corporation of Ohio; and, KEVIN N.)	
MALEK, an individual resident of New)	
York,)	
)	
Defendants)	

NOTICE OF REMOVAL

AND NOW comes Defendant Patterson Belknap Webb & Tyler, LLP, a Limited Partnership of New York, by and through its attorneys, Weinheimer, Schadel and Haber, P.C., and files the within Notice of Removal and in support thereof avers as follows:

1. On or about March 29, 2013, Plaintiff Enrico Nicolo M.D. ("Nicolo") initiated an action by Complaint in the Court of Common Pleas of Allegheny County, Pennsylvania at Case No. GD13-005791 against Ethicon Endo-Surgery Inc., Patterson Belknap Webb & Tyler LLP and Kevin Malek. A copy of the docket, Complaint and Return of Service is attached hereto as Exhibit "A".
2. Nicolo has alleged a claim for "Misappropriation of Trade Secrets" as to all Defendants.

3. Upon information and belief, and as alleged by Nicolo, Nicolo is a Pennsylvania resident with an address of 1515 Timberlane Road, Clairton PA 15025. (See Complaint at ¶ 3).
4. Patterson Belknap Webb & Tyler LLP is a New York limited liability partnership all of whose partners are citizens of New York, Connecticut or New Jersey.
5. Patterson Belknap Webb & Tyler LLP has a principal place of business located at 1133 Avenue of the Americas, New York, NY 10036.
6. Patterson Belknap Webb & Tyler LLP was served with the Complaint on April 24, 2013 and has timely filed this Notice of Removal within thirty (30) days of service.
7. Kevin Malek is an individual with a residence address of 130 W 15th St, Apt 11J New York, NY 10011-6799 and a business address of 340 Madison Avenue, 19th Floor, New York, New York 10173. (See Complaint at ¶ 5).
8. Ethicon Endo-Surgery Inc. is a corporation of the state of Ohio and has its principal place of business at 4545 Creek Road, Blue Ash, Ohio 45242, a suburb of Cincinnati. (See Complaint at ¶ 6).
9. Neither Patterson Belknap Webb & Tyler LLP, Kevin Malek nor Ethicon Endo-Surgery Inc. is a citizen of Pennsylvania.
10. Accordingly, there is complete diversity among the parties under 28 U.S.C. §1332(a).
11. Nicolo seeks damages in excess of \$75,000.00 in the above action as alleged in the Complaint at page 20 and has already sent a demand in excess of \$75,000.00.

12. This Honorable Court has jurisdiction of this matter pursuant to 28 U.S.C. §1332(a) as the action is between citizens of different states or a foreign state and the amount in controversy is in excess of \$75,000.00.
13. As evidenced by Exhibit B, both Ethicon Endo-Surgery Inc. and Kevin Malek have consented to and join in the removal of this action.
14. For the foregoing reasons, this action is removable pursuant to 28 U.S.C. §1441.
12. Patterson Belknap Webb & Tyler LLP will provide written notice of this removal to counsel for Nicolo and will file a copy of this notice with the Clerk of Records (Prothonotary) of Allegheny County, Pennsylvania.

WHEREFORE, Patterson Belknap Webb & Tyler LLP respectfully files this Notice of Removal.

Respectfully submitted,

WEINHEIMER, SCHADEL & HABER, PC

By: /s/ James R. Schadel

James R. Schadel, Esquire

Pa. ID #27937

Gregory J. Norton, Esquire

Pa. ID #200563

602 Law and Finance Building

429 Fourth Avenue

Pittsburgh, PA 15219

412.765.3399

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the within ***NOTICE OF REMOVAL***, filed in Federal Court, was served via the Court's ECF System and U.S. First Class Mail (postage prepaid), email, fax and/or hand delivery on May 21, 2013 upon the following:

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1177 Avenue of the Americas
New York NY 10036
Counsel for Co-Defendant, Ethicon Endo-Surgery, Inc.

Respectfully submitted,

WEINHEIMER, SCHADEL & HABER, PC

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